

Message Text

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ACTION ARA-14

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TO SECSTATE WASHDC 5862

C O N F I D E N T I A L SECTION 1 OF 3 LA PAZ 4761

FOR ACTING ASSISTANT SECRETARY LUERS

E.O. 11652:GDS
TAGS: CASC, SNAR, BL, US
SUBJECT: US CITIZEN PRISONERS IN BOLIVIA: PROPOSAL TO SEND
A NEGOTIATING TEAM TO LA PAZ

REF: STATE 139247, LA PAZ 4475, LA PAZ 3699,

1. I APPRECIATE THE OPPORTUNITY TO PROVIDE MY THOUGHTS AND
RECOMMENDATIONS WITH REGARD TO THE PROPOSAL TO SEND A TEAM
TO BOLIVIA TO NEGOTIATE WITH THE GOB ABOUT US CITIZEN PRISONERS.
WHILE I AM KEENLY INTERESTED IN NEW IDEAS TO HELP RESOLVE THE
MATTER OF THE PRISONERS, I BELIEVE THAT THE PROPOSAL AS
DESCRIBED WOULD NOT BE EFFECTIVE, COULD HARM THE PRISONERS'
INTERESTS, AND PROBABLY WOULD BE REJECTED BY THE GOB. I BELIEVE
THAT THE APPROVED STRATEGY THAT WE ARE FOLLOWING, WHICH IS TO
ACCELERATE THE JUDICIAL PROCESS, IS WORKING AND PROGRESS IS
BEING MADE. IT IS IMPORTANT TO NOTE THAT WE ARE ATTEMPTING TO
INFLUENCE AN INDEPENDENT JUDICIARY IN A FOREIGN SOVEREIGN
STATE. IN LA PAZ 4475 WE REVIEWED THE PROGRESS MADE PRIOR TO
THE LA PAZ JUDICIAL RECESS. WHILE THE RESULTS WERE NOT
EVERYTHING WE WISHED, THEY SHOW PROGRESS. THE EXECUTIVE
BRANCH OF THE GOB HAS ESTABLISHED NEW COURTS, SPEEDED UP THE
WORK OF THE FISCALES, AND BROUGHT TO THE ATTENTION OF THE
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JUDGES THE NEED TO ACCELERATE THEIR WORK. THE JUDGES HAVE
REACHED SENTENCES. MCDONALD AND LACROIX HAVE BEEN SENTENCED
TO TWO YEARS AND SIX MONTHS AND A FINE FOR POSSESSION OF SIX
KILOS AND 83 GRAMS OF COCAINE; BOGGESS AND KLOEHN WERE SENTENCED
TO THREE YEARS AND FIVE MONTHS AND A FINE FOR POSSESSION OF ONE
KILO AND 34 GRAMS OF COCAINE; PALAZUELOS WAS SENTENCED TO TWO
YEARS AND SIX MONTHS AND A FINE FOR POSSESSION OF 350 GRAMS OF

COCAINE; BESSELLE WAS SENTENCED TO THREE YEARS AND A FINE FOR POSSESSION OF FOUR KILOS OF COCAINE; WALKER AND FARMER WERE SENTENCED TO TWO YEARS AND COSTS; RODENBERG'S CASE PASSED THROUGH THE SUPERIOR COURT AND IS UNDER REVIEW IN THE SUPREME COURT; DUFFY, MCGINNIS AND SULLIVAN SHOULD BE SENTENCED SOON AFTER THE JUDGE HAS HIS NEXT HEARING; BLUM AND LOGAN ARE IN THE FINAL STAGES OF THEIR CASE AND THE JUDGE HAS HINTED TO OUR ATTORNEY THAT HE MAY MAKE A FAVORABLE DECISION; GOLDMAN IS IN A CLINIC; THE FISCAL HAS RECOMMENDED RELEASE FOR SPAW AND PAULSEN AND THEIR CASE IS PENDING SENTENCING. THE SENTENCES ARE MILD; THE AMERICAN CASES ARE GETTING PREFERENTIAL TREATMENT BY THE COURTS; THE REVIEWS BY THE SUPERIOR COURT SHOULD GO FASTER NOW THAT IT IS REORGANIZED; AND WE HAVE THE STATED COOPERATION OF THE SUPREME COURT. I, PERSONALLY, BELIEVE THAT THIS IS RATHER IMPRESSIVE IN COMPARISON WITH THE SITUATION BEFORE OUR MAJOR PUSH FOLLOWING ENACTMENT OF THE NEW LAW WITH LESSER PENALTIES. I DO NOT SEE ANY WEAK OR MINOR CASES WHICH ARE UNATTENDED NOR WHERE "EXPEDITIOUS RELEASE" CAN BE OBTAINED BY TALKING WITH THE EXECUTIVE BRANCH.

2. IN PARAGRAPH ONE OF YOUR TELEGRAM YOU STATE THAT ON MAY 16 ASSISTANT SECRETARY TODMAN WAS "ASSURED THAT SENTENCING OF SEVERAL CASES WOULD TAKE PLACE IN THE VERY NEAR FUTURE AND THAT AT LEAST SOME PRISONERS WITH WEAK CASES OR WITH CHARGES OF POSSESSION OF SMALL AMOUNTS OF NARCOTICS WOULD BE RELEASED." I AM UNAWARE THAT AN ASSURANCE ON RELEASES WAS GIVEN DURING CONFIDENTIAL

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HIS VISIT HERE. LA PAZ 3699 REPORTS THE CONVERSATIONS BETWEEN BOLIVIAN OFFICIALS AND TODMAN. THE REMARKS ABOUT SENTENCING SHOULD BE CONSIDERED AS HOPES OR PREDICTIONS, NOT A COMMITMENT, SINCE THE EXECUTIVE CANNOT COMMIT THE JUDICIARY.

3. IN THE FIRST PART OF PARAGRAPH TWO YOU SET FORTH A THESIS WHICH I DO NOT SHARE. THE BOLIVIAN EXECUTIVE BRANCH BELIEVES THAT THOSE WHO ARE ACCUSED OF VIOLATING BOLIVIAN LAW SHOULD BE TRIED UNDER BOLIVIAN LAW AND SENTENCED BY BOLIVIAN JUDGES. THE EXECUTIVE BRANCH BELIEVES THAT IT HAS TAKEN NECESSARY MEASURES TO SPEED UP ITS PART OF THE JUDICIAL EQUATION. IT BELIEVES MATTERS NOW ARE LARGELY IN THE HANDS OF THE JUDGES WHO, THEY INSIST PUBLICLY, ARE INDEPENDENT. I CANNOT IDENTIFY WHAT FURTHER LEGAL ACTION TO ASK THE EXECUTIVE BRANCH TO TAKE, EXCEPT AS SPECIFIC ASPECTS OF A CASE MIGHT ARISE, SUCH AS SPEEDING UP A REPORT BY A FISCAL. THE GOB WOULD NOT ACCEPT NOR RESPOND WELL TO THE PUBLIC POLITICAL PRESSURE PUT ON IT TO TAKE DIRECT ACTION TO MANIPULATE OR DICTATE TO THE JUDICIARY. THIS IS PARTICULARLY TRUE REGARDING THE SUPERIOR AND SUPREME COURTS WHERE ALL THE SENTENCES MUST BE REVIEWED. THE MINISTER OF INTERIOR AND THE INFLUENTIAL MORNING NEWSPAPER, "EL DIARIO," HAVE COMMENTED RECENTLY WHEN ASKED ABOUT THE POSSIBILITY OF

A MEXICAN-TYPE TREATY THAT THERE IS NO OTHER RECOURSE THAN FOR BOLIVIA TO TRY ACCUSED VIOLATORS OF ITS LAW IN ITS OWN COURTS. THE NEWSPAPER SAID TOO THAT THOSE SENTENCED SHOULD SERVE THEIR SENTENCES IN BOLIVIA. THUS, I DO NOT BELIEVE THE GOB WOULD WANT AND PROBABLY WOULD REJECT A "NEGOTIATING" TEAM. THEY ALREADY SEE THE ACCEPTABLE OUTCOME IN SIGHT--CONTINUED ACCELERATION OF JUDICIAL PROCESSES AND RESOLUTION OF THE OLDER CASES. I SHOULD NOTE THAT THE PROBLEM OF AMERICANS IN JAIL ON NARCOTICS CHARGES WILL NOT GO AWAY WHEN THE OLDER CASES ARE RESOLVED.

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TO SECSTATE WASHDC 5863

C O N F I D E N T I A L SECTION 2 OF 3 LA PAZ 4761

FOR ACTING ASSISTANT SECRETARY LUERS

TRAFFICKERS AND COURIERS ARE STILL COMING HERE AND SOME ARE BEING CAUGHT. AMONG THE RECENT CASES WERE CITIZENS ACCUSED OF POSSESSING FROM 2 TO 10 KILOS OF COCAINE AND OF HAVING LARGE AMOUNTS OF CASH TO MAKE PURCHASES OF DRUGS. DEA CABLES FROM THE US CONTINUE TO REPORT AMERICANS BEING PICKED UP ATTEMPTING TO SMUGGLE COCAINE INTO THE US FROM BOLIVIA. THUS I BELIEVE THE US SHOULD CONTINUE ITS PROGRAM OF COOPERATION WITH THE GOB FOR LAW ENFORCEMENT COMBINED WITH FAIR AND SPEEDY TRIALS. OUR PRISONERS ARE RECEIVING PREFERENTIAL TREATMENT IN THE COURTS WHICH I WOULD NOT WANT TO JEOPARDIZE. IT APPEARS THAT THE BOLIVIAN POLICE ARE NOT ARRESTING PERSONS IN POSSESSION OF SMALL AMOUNTS OF NARCOTICS, WHICH MAY BE AN UNSTATED CHANGE IN THEIR PROCEDURES. PLEASE SEE OUR CABLE ASKING FOR CONSIDERATION OF A BILATERAL BETWEEN DEA AND DNSP WHICH DNSP SAYS WILL STRENGTHEN ITS HAND IN DEPORTING PERSONS PICKED UP WITH SMALL AMOUNTS OF DRUGS.

4. THE PROPOSAL THAT THE TEAM "NEGOTIATE" ALSO RAISES THE QUESTION OF WHAT THE US HAS TO OFFER. DURING TODMAN'S VISIT HE WAS ASKED

PRIVATELY AND IN A PRESS CONFERENCE WHETHER THE USG RESPECTED BOLIVIAN LAWS AND HE RESPONDED IN THE AFFIRMATIVE. ALSO WE MUST BE CAREFUL NOT TO ASK FOR SOMETHING WHICH WE CANNOT RECIPROCATATE IF AKSED BY THE GOB. THEREFORE, I AM ASSUMING THAT
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IT IS STILL DEPARTMENTAL POLICY TO WORK WITH THE BOLIVIAN AUTHORITIES ON ACCELERATING THEIR OWN PROCESSES UNDER THEIR OWN LAWS. IN ADDITION, WHERE IT MAKES SENSE, WE ARE PRESSING THE BOLIVIANS TO MODIFY THEIR LAWS, PARTICULARLY SO AS TO ELIMINATE THE REQUIREMENT FOR THE SUPREME COURT REVIEW OF EACH SENTENCE. AS OUR BOLIVIAN LEGAL ADVISERS HAVE TOLD US, AND WE HAVE REPEATED, THERE IS NO ONE MAGIC SOLUTION TO THESE CASES AS EACH ATTORNEY IS DIFFERENT, EACH JUDGE IS DIFFERENT, AND EACH DEFENSE ATTORNEY IS DIFFERENT. THE FRYER CASE WAS UNIQUE, AS THE LAWYERS HAVE TOLD US, AND WE HAVE REPORTED TO THE DEPARTMENT.

5. I WOULD LIKE TO COMMENT ON EACH OF THE TEAM'S OBJECTIVES.

A. THAT THE VISIT WOULD IMPRESS UPON THE GOB OUR HIGH-LEVEL INTEREST IN RESOLVING THE PROBLEM. THERE IS NO QUESTION BUT THAT THE GOB IS AWARE OF OUR HIGH-LEVEL INTEREST. ACCORDING TO PRESS REPORTS, SECRETARY VANCE RAISED THE MATTER WITH THE BOLIVIAN FOREIGN MINISTER AT GRENADA. ASSISTANT SECRETARY TODMAN RAISED IT WITH PRESIDENT BANZER AND THE MINISTER OF INTERIOR. MS. FALCO RAISED IT WITH THE MINISTER OF FINANCE AND SEVERAL OTHER KEY BOLIVIAN AUTHORITIES. I HAVE RAISED IT PERSONALLY WITH THE PRESIDENT, THE FOREIGN MINISTER, THE MINISTER OF INTERIOR, THE MINISTER OF FINANCE, THE MINISTER OF PLANNING, ALL THE JUDGES IN LA PAZ, THE PRESIDENT OF THE BOLIVIAN SUPREME COURT, AND KEY AUTHORITIES IN COCHABAMBA AND SANTA CRUZ. THE SUBJECT HAS APPEARED IN MANY US AND BOLIVIAN NEWSPAPER STORIES. INDEED, THERE IS A LETTER TO TODMAN FROM AMBASSADOR LANDAU THAT REPORTS INFORMATION FROM THE PARAGUAYANS THAT PRESIDENT BANZER TOLD STROESSNER THAT HE IS GETTING TIRED OF HIGH-LEVEL US PRESSURE ON THE PRISONER ISSUE.

B. THE SPEEDY RESOLUTION OF CASES AND EXPEDITIOUS RELEASE OF PERSONS INVOLVED IN WEAK OR MINOR CASES. THIS CAN ONLY BE ACCOMPLISHED
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THROUGH ACCELERATION OF THE JUDICIAL PROCESS, WHICH IS THE STRATEGY WE ARE CURRENTLY EMPLOYING. IT WOULD BE A MAJORSWITCH IN US POLICY WERE WE TO ASK THE EXECUTIVE BRANCH FOR THE RELEASE OF PRISONERS BY OTHER THAN LEGAL MEANS. SUCH A CHANGE COULD WELL SIGNAL THE END OF THE BILATERAL NARCOTICS PROGRAM.

C. THE USE OF ALL AVAILABLE REMEDIES UNDER THE BOLIVIAN JUDICIAL CODE. THIS IS WHAT WE ARE DOING WITH OUR ATTORNEYS.

D. STRESS ON HUMAN RIGHTS, INCLUDING OUR CONCERN OVER REPORTED PHYSICAL MISTREATMENT. THIS IS AN ITEM OF CONSTANT ATTENTION BY OUR CONSULAR OFFICERS, RESULTING IN DISCUSSIONS WITH THE BOLIVIAN AUTHORITIES AND, IN A FEW CASES, NOTES OF PROTEST TO THE GOB. WITHIN THE LAST 6-8 MONTHS THERE HAVE BEEN NO REPORTS OF MISTREATMENT THAT OUR CONSULAR OFFICERS HAVE BEEN ABLE TO VERIFY.

E. CONSULTATION WITH THE EMBASSY ON WAYS TO IMPROVE FURTHER SERVICES TO THE PRISONERS. PLEASE SEE THE MEMORANDUM WE GAVE TO THE MOSKOWITZ GROUP WHICH LISTED OUR PROPOSALS. WE CAN THINK OF NOTHING MORE TO ADD TO THAT LIST AND SUGGEST THAT IT BE REVIEWED TO SEE WHAT ACTION CAN BE TAKEN IN WASHINGTON. FOR EXAMPLE, THE CREATION OF A CONSULAR AGENCY IN COCHABAMBA WOULD HELP.

6. AS TO RESOURCES, YOU WILL NOTE THAT THE GROUP WOULD BRING UPDATED INFORMATION ON CONGRESSIONAL AND EXECUTIVE BRANCH ATTITUDES THAT MAY INFLUENCE HEARINGS AND CONGRESSIONAL ACTIONS. I HOPE THAT THE ACTIONS TAKEN BY THE BOLIVIAN COURTS BEFORE THE LA PAZ RECESS ARE VIEWED BOTH BY THE EXECUTIVE AND CONGRESSIONAL BRANCHES AS EVIDENCE OF PROGRESS. CARE MUST BE USED TO PREVENT US FROM SLIPPING INTO A FEELING THAT WE SHOULD THREATEN OR USE NEGATIVE LEVERAGE ON THE BOLIVIAN EXECUTIVE BRANCH TO EXTRACT ACTIONS FROM THE BOLIVIAN JUDICIARY. YOU NOTE MAKING A HIGHLY PERSONAL APPROACH TO PRESIDENT BANZER. I DO NOT KNOW WHAT THE TEAM COULD SUGGEST TO HIM TO DO THAT HE IS NOT ALREADY DOING.
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TO SECSTATE WASHDC 5864

C O N F I D E N T I A L SECTION 3 OF 3 LA PAZ 4761

FOR ACTING ASSISTANT SECRETARY LUERS

IF IT IS TO ASK HIM AGAIN TO HELP ACCELERATE THE JUDICIAL PROCESS, IT IS MY VIEW THAT HE IS ALREADY RESPONDING. IF IT IS TO ASK HIM TO GRANT AMNESTY, FOR EXAMPLE, WE MUST BEAR IN MIND THAT THE PRESIDENT HAS ALREADY SAID, AS HAS HIS MINISTER OF INTERIOR, THAT THEY ARE NOT ABLE LEGALLY TO RESPOND TO SUCH AN APPROACH AND IF THEY COULD IT WOULD BE POLITICALLY IMPOSSIBLE. A LETTER FROM OUR PRESIDENT OR SECRETARY TO PRESIDENT BANZER SEEMS TO ME AT THIS MOMENT TO BE UNNECESSARY IN VIEW OF THE REASONS CITED ABOVE. AS TO THE FULL COOPERATION OF DEA CONTACTS, I BELIEVE WE ALREADY HAVE IT. AS TO LEGAL EXPERTISE, WHICH OF COURSE IS ALWAYS WELCOME, WE BELIEVE THAT THE EMBASSY LEGAL ADVISERS ARE DOING THEIR JOB. AS TO THE MEMORANDUM OF LAW REGARDING US POLICY ON SMALL-USER PROSECUTION, PLEASE FURNISH THIS EMBASSY WITH A COPY FOR DISCUSSION WITH BOLIVIAN AUTHORITIES. AS TO DISCUSSIONS WITH EMBASSY LEGAL ADVISERS, WE THINK WE ALREADY HAVE THEIR BEST AVAILABLE OPINIONS AND THAT THEY ARE DOING THEIR BEST TO EXTRACT FROM THE LAWS ALL AVAILABLE OPTIONS FOR OUR CITIZENS. IN YOUR FYI, YOU STATE THAT THE PARENTS HAVE SUGGESTED THAT THE GOB MIGHT BE ENCOURAGED TO DEPORT PRISONERS AS A GOOD WILL GESTURE SIMILAR TO THAT OF THE CUBANS. I HOPE BY INCLUDING THAT AS AN FYI THAT THIS WOULD NOT BE A PROPOSAL WHICH THE US WOULD MAKE. THE BOLIVIANS COULD HARDLY BE EXPECTED TO ACCEPT CUBA AS A MODEL FOR
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THEIR ACTIONS.

7. I CONCLUDE THAT THE VISIT OF THE TEAM NOW WOULD NOT HELP THE PRISONERS. THE BOLIVIAN GOVERNMENT DOES NOT CONSIDER THAT THERE IS ANYTHING TO NEGOTIATE AND IT WOULD PROBABLY REACT NEGATIVELY IF WE WERE TO PROPOSE THE VISIT TO THEM. THE COMPOSITION OF THE TEAM THAT YOU PROPOSE IS IMPRESSIVE BUT I REGRET THAT I DO NOT SEE ANY EFFECTIVE NEGOTIATING BASE FOR THEM. I HAVE THE FEELING THAT WE MAY HAVE PRESSURED TO THE LIMIT AND IF WE GO FURTHER WE COULD ANTAGONIZE THOSE

BOLIVIANS FROM WHOM WE NEED FURTHER COOPERATION--THE JUDGES NOW PERHAPS MORE THAN THE EXECUTIVE BRANCH. EVEN NOW WE ARE SEEN BY SOME AS PUSHING THE BOLIVIAN EXECUTIVE TO MANIPULATE THE JUDICIARY, WHICH THE GOB INSISTS IS INDEPENDENT. THE DANGER EXISTS EVEN NOW THAT JUDGES MAY REACT NEGATIVELY TO PRESSURE IN INDIVIDUAL CASES OR THAT THE PREFERENTIAL TREATMENT FOR AMERICANS COULD BE LOST. TO A CONSIDERABLE EXTENT, SOME OF THE BOLIVIAN AUTHORITIES RESPONSIBLE FOR HANDLING OF THESE CASES ARE HONEST BUT UNFORTUNATELY NOT FLEXIBLE. OUR PRESSURE FOR FLEXIBILITY MAY BE AN INDUCEMENT TO CORRUPTION BY OTHERS. THUS, THIS MATTER NEEDS TO BE HANDLED DELICATELY IN ORDER TO BE EFFECTIVE FOR THE PRISONERS.

8. MAY I SUGGEST THAT YOU HOLD OFF THE PROPOSAL UNTIL LA PAZ COURTS REOPEN AND UNTIL A FURTHER PUSH BY THE EMBASSY IS MADE SO AS TO TEST OUR CONSLUSION THAT THE BOLIVIAN JUDICIAL PROCESS IS NOW MOVING. IF THIS PROVES NOT TO BE THE CASE, THEN THE EMBASSY COULD DISCUSS THE IDEA OF A VISIT WITH THE GOB. EVEN THEN I THINK THAT WE WOULD NEED TO HAVE SOMETHING TO OFFER AND MUST AVOID ASSUMING AND ACTING AS THOUGH PRESIDENT BANZER HAS THE LEGAL AUTHORITY TO RELEASE PRISONERS, IF ONLY HE COULD BE CONVINCED THAT IT IS IN HIS INTEREST TO DO SO. THAT APPROACH WOULD OF COURSE END THE BILATERAL ENFORCEMENT PROGRAM AND CONFIDENTIAL

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NOT HELP THE PRISONERS.

9. AT THIS MOMENT I THINK THE MOST DESIRABLE AND POSITIVE STEP IS FOR THE US TO NAME AND DESPATCH A NEW AMBASSADOR TO BOLIVIA AS QUICKLY AS POSSIBLE. HE SHOULD HAVE INSTRUCTIONS TO CONTINUE TO PRESS ON THE SAME POLICY LINES WE HAVE ESTABLISHED. HE WILL MEET IN HIS FIRST FEW WEEKS WITH ALL THE LEADERS AND CAN ACCOMPLISH MANY OF THE PURPOSES OF THE SPECIAL TEAM IN AN APPROPRIATE AND ACCEPTABLE WAY. A NEW AMBASSADOR CAN INVOLVE HIMSELF IMMEDIATELY IN THE PRISONER ISSUE AND CONTINUE TO WORK TO ACCOMPLISH OUR OBJECTIVES, WHILE AT THE SAME TIME NOT HURTING THE INTERESTS OF THE PRISONERS. MY CONCERN IS THAT WE BE EFFECTIVE IN WHAT WE DO AND I CONCLUDE THAT GETTING OUR NEW AMBASSADOR HERE FAST IS THE BEST COURSE OF ACTION.
STEDMAN

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